

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW HAMPSHIRE**

Robert V. Towle

v.

Civil No. 08-cv-038-JL

Warden, New Hampshire State Prison

O R D E R

Before the Court is Robert Towle's petition for a writ of habeas corpus (document no. 1) and amended petition for a writ of habeas corpus (document no. 6), filed pursuant to 28 U.S.C. § 2254. The matter previously came before me for preliminary review. See Rule 4 of the Rules Governing § 2254 Proceedings in the United States District Courts ("§ 2254 Rule") (requiring initial review to determine whether the petition is facially valid); United States District Court District of New Hampshire Local Rule 4.3(d)(2) (authorizing magistrate judge to preliminarily review pro se filings by incarcerated persons). After an initial review of the petition, I issued an Order directing Towle to amend his petition to demonstrate that all of his claims had been exhausted in the state courts (document no. 3).

Towle has complied with my order to amend by filing an amended petition for a writ of habeas corpus (document no. 6). The amended petition demonstrates that each of the claims raised in Towle's original petition, and enumerated in my order to amend, including the federal nature of each of the claims, was presented to the New Hampshire Supreme Court in Towle's December 13, 2007 notice of appeal. The New Hampshire Supreme Court declined the appeal on January 28, 2008. The claims presented in Towle's federal habeas petition have thus been exhausted and the petition may proceed.

Accordingly, the petition shall be served upon the New Hampshire State Prison, which shall file an answer or other pleading in response to the allegations made therein. See id. (requiring reviewing judge to order a response to the petition). The Clerk's office is directed to serve the New Hampshire Office of the Attorney General, as provided in the Agreement on Acceptance of Service copies of this Order, the original habeas petition (document no. 1), my February 14, 2008 order to amend (document no. 3) and the amended habeas petition (document no. 6). Respondent shall answer, or otherwise plead within thirty (30) days of the date of this Order. The answer shall comply

with the requirements of § 2254 Rule 5 (setting forth contents of the answer).

Upon receipt of the response, the Court will determine whether a hearing is warranted. See § 2254 Rule 8 (providing circumstances under which a hearing is appropriate).

Petitioner is referred to Fed. R. Civ. P. 5, which requires that every pleading, written motion, notice, and similar paper, after the petition, shall be served on all parties. Such service is to be made by mailing the material to the parties' attorney(s).

SO ORDERED.


James R. Muirhead
United States Magistrate Judge

Date: July 16, 2008

cc: Robert V. Towle, pro se